



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,474	07/30/2003	Philip Kopf	5G04.1-011	9194

23506 7590 12/14/2005

GARDNER GROFF, P.C.
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

EXAMINER

PARDO, THUY N

ART UNIT	PAPER NUMBER
----------	--------------

2165

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,474

Applicant(s)

KOPF ET AL.

Examiner

Thuy Pardo

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003 and 22 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,9,11-17,19,21-29,31 and 33 is/are rejected.
- 7) ☒ Claim(s) 7,10,18,20,30 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/22/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's Application filed on July 30, 2003 has been reviewed.
2. Claims 1-33 are presented for examination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6, 8, 9, 11-17, 19, 21-29, 31 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al. (Hereinafter "Walker") US Patent Application No. 2003/0055727.

As to claim 1, Walker teaches the invention substantially as claimed, comprising:

a) receiving identified spending amount information by the participants at the merchants

[Purchase total: \$3.58 for Hamburger: \$2.59 and Medium Fries: \$0.99, R-450 of fig. 4].

Art Unit: 2165

b) receiving actual spending amount information by the participants at the merchants [\$0, R550 of fig. 5]; and

c) determining the beneficiary benefits payable by the merchants using a benefit determination method based on the identified spending amount information and the actual spending amount information [Based on the offer identifier “OFF-1-23480923” and corresponding subsidy No. “SUB-1-75089134”, conditions for offering: $\$3 < \text{purchase total} < \5 and activity: “get a haircut at Coolcuts” will get a benefit of a “rebate purchase total”, R-550 of fig. 5; 0057; 0060].

As to claims 15 and 28, all limitations of these claims have been addressed in the analysis above, and these claims are rejected on that basis.

As to claim 2, Walker teaches the invention substantially as claimed. Walker further teaches that the benefit determination method includes reconciling the identified spending amount information by each of the participants at each of the merchants with the later actual spending amount information by each of the participants at each of the merchants [0058-0060].

As to claim 3, Walker teaches the invention substantially as claimed. Walker further teaches an accurate identified spending reward plan that encourages accurately estimating the identified spending amounts [0059-0060; fig. 4-5].

Art Unit: 2165

As to claim 4, Walker teaches the invention substantially as claimed. Walker further teaches that the accurate identified spending reward plan is based on the effective actual spending amount to generate lift for the merchant, wherein the effective actual spending amount is the lesser of the actual spending amount and the identified spending amount [0060; 0068-0069].

As to claim 5, Walker teaches the invention substantially as claimed. Walker further teaches a funding method for a transfer of funds in advance of the actual spending and based on the identified spending amount information [coupon, 0233; 0242].

As to claim 6, Walker teaches the invention substantially as claimed. Walker further teaches permitting adjusting the advanced transferred funds between account purses [payment identifier, 715 of fig. 7; 0026-0027].

As to claim 8, Walker teaches the invention substantially as claimed. Walker further teaches reducing the beneficiary benefit by a multiplier that represents under-spending by the participant at the merchant [0239].

As to claim 9, Walker teaches the invention substantially as claimed. Walker further teaches that the multiplier is the effective actual spending amount divided by the identified spending amount, and the effective actual spending amount is the lesser of the actual spending amount and the identified spending amount [fig. 4-5].

As to claim 11, Walker teaches the invention substantially as claimed. Walker further teaches that the benefit determination method determines a benefit to an administrator of the method, wherein the administrator benefit is not reduced when the actual spending is different from the identified spending [fig. 4-5].

As to claim 12, Walker teaches the invention substantially as claimed. Walker further teaches receiving from the merchants instructions for offering to the participants special promotions with special promotion benefits payable to the beneficiaries [0213-0216].

As to claim 13, Walker teaches the invention substantially as claimed. Walker further teaches a server computer or bank of server computers connected to a computer network and storing computer-executable instructions [fig. 1; 0034-0035].

As to claim 14, Walker teaches the invention substantially as claimed. Walker further teaches a computer-readable storage medium storing computer-executable instructions [fig. 2; 0036-0044].

As to claims 16, 17, 19, 21-27, 29, 31 and 33, all limitations of these claims have been addressed in the analysis above, and these claims are rejected on that basis.

Allowable Subject Matter

Art Unit: 2165

4. Claims 7, 10, 18, 20, 30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 7, 18 and 30, the feature the beneficiary benefit is defined as a beneficiary rebate and the benefit determination method determines the beneficiary rebate according to the equation:

$$BR = EAS * (NRP - ARP)$$

wherein:

BR = Beneficiary Rebate,

EAS = Effective Actual Spending,

NRP = Negotiated Rebate Percentage, and

ARP = Administrative Rebate Percentage, taken together with other limitations of claims

1, 3 and 5, or 15 and 16, or 28 and 29 was not disclosed by the prior art of record.

As to claims 10, 20 and 32, the feature that the beneficiary benefit is defined as a beneficiary rebate and the benefit determination method determines the beneficiary rebate according to the equation:

$$BR = (EAS) * (NRP - ARP) * (EAS \text{ I IS}) \text{ wherein:}$$

BR = Beneficiary Rebate,

EAS = Effective Actual Spending,

NRP = Negotiated Rebate Percentage,

Art Unit: 2165

ARP = Administrative Rebate Percentage, and

IS = Identified Spending, taken together with other limitations of claims 1, 3 and 8, or 15 and 19, or 28 and 31 was not disclosed by the prior art of record.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo, whose telephone number is 571-272-4082. The examiner can normally be reached Monday through Thursday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at 571-272-4146.

The fax phone number for the organization where this application or proceeding is assigned as follows:

571-273-8300 (Official Communication)

and/or:

571-273-4082 (Use this Fax#, only after approval by Examiner, for "INFORMAL" or "Draft" communication. Examiner may request that a formal/amendment be faxed directly to then on occasions).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/630,474
Art Unit: 2165

Page 8

December 09, 2005

A handwritten signature in black ink, appearing to be 'Thuy N. Pardo', with a stylized, looping initial 'T' and a long, sweeping horizontal stroke at the end.

THUY N. PARDO
PRIMARY EXAMINER